

Notice of Allowability

Application No.

10/527,692

Applicant(s)

SUGIYAMA, HARUO

Examiner

Maury Audet

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/3/07.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given by Jim Kelly, Applicant's Representative, on 9/27/07.

IN THE CLAIMS

In claim 1, line 2, the term "an" has been deleted and the term --the-- inserted.

In claim 5, line 3, the term "an" has been deleted and the term --the-- inserted.

Claim 7 has been amended in its entirety to now read:

Claim 7 (Currently Amended) A method for treatment of acute myeloblastic leukemia (AML-M1) in a patient in need thereof who is positive for an HLA-A24 and positive for WT1, which comprises administering a water-in-oil emulsion which comprises as an effective ingredient a peptide having the amino acid sequence of Cys Tyr Thr Trp Asn Gln Met Asn Leu (SEQ ID NO: 3).

IN THE SPECIFICATION

On page 13, lines 2 and 4, the term "Montanide" has been capitalized.

On page 13, line 2, after the phrase "(SEPPIC Inc.), the phrase --, an adjuvant comprising mineral oil and the surfactant mannite oleate,-- has been inserted.

On page 16, line 8 the term "Montanide" has been capitalized.

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[Note: Support for specification amendment as to the contents of the known trademarked product MONTANIDE ISA 51 provided merely by example in NCI Drug Dictionary.

HLA-A1, A2, B35-restricted survivin peptides/Montanide ISA-51 vaccine.

<http://www.cancer.gov/Templates/drugdictionary.aspx?cdrid=433196&page=1&print=1>].

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art of record does not reasonably teach or suggest the presently claimed products and methods of comprising/using the artificial/synthetic cancer antigen peptide SEQ ID NO: 3. The previous Examiner (Young) properly cited art over the SEQ ID NO: 2, which only differs in that residue two of that 9mer is Met instead of Tyr as in SEQ ID NO: 3. However, no suggestion/teaching/ motivation was found for substituting specifically residue 2 of this 9mer with Tyr. Thus, SEQ ID NO: 3 in an emulsion/kit/method of making/method of using for treating AML-M1 leukemia (as tested in Example 3, on specification page 15-17).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

Claims 1-7 have been rejoined with claims, are allowed.

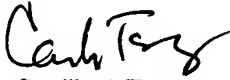
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maury Audet whose telephone number is 571-272-0960.

The examiner can normally be reached on M-Th. 7AM-5:30PM (10 Hrs.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA, 09/30/2007


Cecilia J. Tsang
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Technology Center 1600